

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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In the Matter of)
)
Petition of the)
Community Broadcasters Association)
for Establishment of a "Class A")
Television Service)

RM-9260

To: The Commission—Mail Stop 1170

**COMMENTS OF JOHN KOMPAS AND JACKIE BIEL
KB LTD.**

John Kompas and Jackie Biel (hereinafter referred to as "Kompas and Biel"), owners of KB Ltd., a Wisconsin Corporation specializing in consulting, marketing, and information services for the low power television ("LPTV") industry, hereby submit their comments in the Petition of the Community Broadcasters Association for Establishment of a "Class A" Television Service.

In brief, Kompas and Biel support the CBA's Petition in general and believe that primary status for LPTV stations is long overdue.

I. The Commenters

Kompas and Biel have been working in the LPTV industry since 1981, before the final rules for the LPTV service were adopted in the *Report and Order* of March 4, 1982.

Ms. Biel is the author of *Low Power Television: Development and Current Status of the LPTV Industry*, published by the National Association of Broadcasters in July 1985. Kompas and Biel published *The LPTV Report*, a monthly news magazine for the LPTV industry, from September

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1986 to October 1992. They have been publishing *Community Television Business*, a biweekly newsletter for the industry, since June 1994. Ms. Biel is the editor of both publications. Since April 1993, she has also written a monthly column on LPTV issues for *Television Broadcast*, a monthly television trade magazine.

Mr. Kompas spearheaded the formation of the LPTV industry's present trade organization, the Community Broadcasters Association, in 1984 and served six terms as the Association's president. He has testified twice before the U.S. Senate Commerce Committee on the importance of LPTV stations to their local communities. He has also done extensive consulting for LPTV stations around the country on every aspect of station operations.

Kompas and Biel are also former partners in W43AV, an LPTV station licensed to Waukesha, Wisconsin.

In November 1995, KB Ltd. entered into an agreement with Nielsen Media Research to develop an accurate audience measurement system for LPTV stations. KB Ltd. is supplying the geographical mapping that identifies the boundaries of LPTV station coverage areas. In addition, KB Ltd. provides specific demographic information about the viewers within those areas, including income, sex, age, gender, education, and occupation. The information is being used by Nielsen to track LPTV station audience ratings, and by KB Ltd. to organize national advertising sales for LPTV stations. Groups of LPTV stations with similar demographics (but not necessarily geographic proximity) are combined to create key demographic sorts for national advertisers who want to buy spots within targeted, demographically-driven programs.

Recently, KB Ltd. also began consulting with a major national program network to bring its programming, via LPTV stations, to markets not now served by the network.

Because of the length of time that Kompas and Biel have been associated with the LPTV industry, as well as the variety of ways that they have been involved, they are uniquely qualified to comment on this proceeding.

II. The Goals of the Federal Communications Commission in Establishing the LPTV Service

The goals of the Federal Communications Commission ("FCC") in establishing the LPTV service were two: 1) to more completely serve the public interest by bringing *local* television service to small, rural communities and ethnic or special interest groups in larger cities that were unserved or underserved by existing full power television stations; and 2) to increase the diversity of viewpoints available to the American people by opening television broadcast ownership to a greater number of citizens, particularly minorities and women.¹

¹*Report and Order (R&O)*, In the Matter of an Inquiry into the Future Role of Low Power Television broadcasting and Television Translators in the National Telecommunications System, Adopted March 4, 1982. ¶80: "of the comparative issues, we shall retain the criterion enunciated in our 1965 *Policy Statement*, *supra*, that we consider most relevant I the low power context, diversification of control of the media of mass communications." [Emphasis added.]. For this reason the Commission added a comparative preference to applicants that are more than 50% minority-owned. [Ibid.] And, "a primary objective for the low power service, facilitating entry by groups and individuals that are new to the broadcast industry." [Ibid.]

"...the potential exists for each [low power] station to originate some programming targeted to discrete local or regional interests. This is a result that we would encourage." [¶87].

"...the primary considerations that inform our deliberations on all aspects of the ownership policy are that low power may provide an opportunity for new entrants into the telecommunications industry at lower cost than would be incurred in starting full service stations or cable systems." [¶94]

"We believe that low power stations should be subject to a minimum of program-related

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The FCC also made the LPTV service a "secondary" service; that is, if the signal of an LPTV station interfered with the signal of a full power television station, the LPTV station had to either correct the interference, move to another channel, or go off the air. Unfortunately, since then, the term "secondary" has been used by many parties, particularly the National Association of Broadcasters and the National Cable Television Association, to imply that the programming and community service that LPTV stations provide to their viewers are inferior, a use that is clearly not the intent of the FCC's term which was—and remains—the *only* definition of the "secondary" nature of LPTV stations.

The *fact*, however, of secondary status has made it virtually impossible for LPTV broadcasters to obtain capital for building or improving their stations. No responsible lender will extend the credit required for a business operation if that business can be legally destroyed at any moment, as LPTV businesses can be by any "primary service" spectrum user, regardless of the demand of the market or the desires and needs of the community. Therefore, it is imperative that the FCC act to ensure the business security of existing and future LPTV stations by establishing a new primary status, "Class A" television service.

regulations, so that they might be fully responsive to marketplace conditions. ... In many instances, particularly in rural or remote areas, low power stations will be set up specifically to fill local needs. ... In some urban markets, unserved ethnic enclaves may be targeted for low power service. But in a major market that already receives adequate local coverage from several full service stations, a low power licensee may discover and attempt to fill a need for additional national news, sports, or entertainment programming. Such judgments are properly left to the licensees; it is in their interest, and the public's, to garner audience by attempting to serve unmet needs." [¶103].

"We are not imposing formal ascertainment obligation on low power stations. It is in the nature of low power stations to be familiar with and responsive to the needs of the viewers they serve. Formalizing this would be needless. To be viable in the highly competitive telecommunications marketplace, these small stations will have to react with sensitivity to the needs and desires of their markets." [¶106].

III. LPTV and the Digital Opportunity

Since the Advanced Television proceeding began in July 1987—and until the Kennard Commission was installed only six months ago—the FCC consistently refused to address the problems of LPTV stations under secondary status. In particular, it never considered the possible role of LPTV stations in the digital television world.

First, it did not attempt to calculate the number of existing, licensed LPTV stations that could be accommodated under the 1992 “draft” digital television allocation table.² Secondly, it did not attempt to determine how many licensed LPTV stations would be displaced if the draft allocation table were adopted. Third, it failed to allow LPTV broadcasters—many of whom employ dozens of people and provide *essential* services to their communities—to apply for digital television channels in a timely fashion.

Kompas and Biel submit that this was patently unfair and contrary to the Commission’s historical policies of protecting the licenses of experienced broadcasters. It was also contrary to the Commission’s intention in the *Second Report and Order* that digital television will be most quickly and adequately implemented by experienced broadcasters.³

We applaud, therefore, the FCC’s recent efforts to provide relief for LPTV stations displaced by

²*Second Further Notice of Proposed Rule Making*, MM Docket No. 87-268. Released August 14, 1992.

³*Ibid.*, ¶6. “...existing broadcasters’ continued involvement in digital television is the most practical, expeditious, and non-disruptive way to bring improved service to the American public. Existing broadcasters possess the know-how and experience necessary to implement digital television swiftly and efficiently.”

DTV and channels 60–69 allotments. And we support the CBA's proposal to allow LPTV stations to convert to digital broadcasts or apply for a second DTV channel. Such a rule would do much to allow LPTV stations to continue to compete in the digital television age.

Kompas and Biel remind the Commission that it has stated firmly, "...we do not intend to cater to full service licensees' unreasonable fears of competition from low power stations, and fetter the low power service for that reason. We believe that low power can provide competition that stimulates the entire telecommunications marketplace.⁴ Despite the obstacles, many LPTV stations have done just that.

IV. Defining the LPTV Market

Kompas and Biel are concerned that the geographic requirement for local programming production proposed in the CBA's Petition may undermine the intent of the Petition. The CBA proposes that at least three hours a week of programming be produced "within the principal city contour" of a Class A LPTV station.

Many LPTV stations' signals reach beyond the principal city contour to other communities—either through cable carriage or with TV translators. Programming produced in these adjacent communities is also important and should be accepted as fulfillment of the local programming requirement proposed by CBA.

Kompas and Biel suggest that the geographic definition be changed to the "market area" of the

⁴*Report and Order*, March 4, 1982, ¶24.

LPTV station. That term would more accurately reflect the service that LPTV stations now provide outside their principal city contours. It would also be consistent with the term used in this context in bills now before both Houses of Congress to create a Class A television service.

We would also urge the Commission to create a system to define LPTV market areas, similar to the ADI it now uses for full power TV stations. Our efforts with advertising agencies to sell LPTV spot time have been hampered by media buyers' confusion about the actual market area of an LPTV station. Media buyers must justify their expenditures to their clients, and unless they can provide actual geographic boundaries—which then can be translated to household demographics—clients are reluctant to approve advertising on LPTV stations.

Formal recognition by the FCC—in terms familiar to media buyers—will make it profoundly easier for LPTV stations to sell spot time to national advertisers. This, in turn, will bring revenue to the stations and provide the financial stability that successful businesses need.

V. Class A Stations Will Help To Stimulate Minority Ownership and Preserve Diversity of Opinion

The FCC's own commitment, articulated in the 1982 *Report and Order* establishing the LPTV service, was to encourage diversity of ownership in telecommunications, particularly among minorities, and to provide underserved populations with local television service. By establishing business security, Class A, primary, status will allow the LPTV industry finally to fulfill that commitment. Loans will be easier to get, and, because of that security, minorities and women will continue in or enter the industry.

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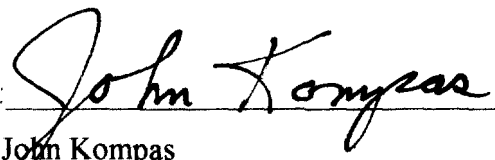
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Local television service to underserved groups and communities will increase, counteracting the consolidation of ownership and the decrease in diversity of viewpoint that has characterized the television industry since the passage of the 1996 Telecommunications Act. There is nothing *local* about a minimum 55-mile coverage area. Experience has shown that full power stations serving large regional populations cover the news and events of the smaller towns and groups within their coverage areas only when, as one community broadcaster put it, "there is an ax murder."

We respectfully request that the Commission grant the CBA's Petition as soon as possible.

Respectfully submitted,

KB Ltd.

By: 
John Kompas

By: 
(Jackie Biel

Dated: May 22, 1998